

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

AB PR QOZB IV PROPERTY, LLC,

Plaintiff,

v.

**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON
COUNTY, TENNESSEE**

Defendant.

Case No. 3:24-cv-00280

**Judge Richardson
Magistrate Judge Newbern**

DEFENDANT’S MOTION TO DISMISS

[Fed. R. Civ. P. 12(b)(1) & (6)]

Plaintiff alleges that Defendant Metro placed a Permit Lock on its property in November 2021 preventing any development of the property. (Am. Compl., Doc. No. 21, ¶25.) Plaintiff brings suit under § 1983 for unlawful takings under the U.S. and Tennessee Constitutions; for a due process violation under the U.S. Constitution, based on an alleged right acquired through estoppel; and for accompanying declaratory relief. (Am. Compl., ¶¶ 52-83.)

However, because Plaintiff’s claims are governed by a one-year limitations period; and because Plaintiff’s claims accrued when the Permit Lock was put in place in November 2021; and because this lawsuit was not filed until March 2024; Plaintiff’s claims are time-barred.

In addition, sovereign immunity bars any claimed property interest based on estoppel; therefore, Plaintiff’s due process claim should be dismissed for this reason as well.

Finally, Plaintiff’s claims for declaratory relief should be dismissed because, where the underlying claims are not viable, there can be no independent declaratory relief.

In support of this motion, Defendant Metro relies upon its reasoning and analysis provided in its accompanying memorandum of law.

Respectfully submitted,

/s/ J. Brooks Fox
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been delivered via the CM/ECF electronic filing system to Kate Skagerberg, Mackenzie Keffalos, NELSON MULLINS RILEY & SCARBOROUGH, LLP, 1222 Demonbreun Street, Ste 1700, Nashville, TN 37203, on May 31, 2024.

/s/ J. Brooks Fox
J. Brooks Fox